

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

DAVID COOPER,)
)
Plaintiff,)
) CIVIL ACTION NO.
v.) 2:06cv418-MHT
)
DR. NICHOLS, et al.,)
)
Defendants.)

ORDER

The plaintiff filed a notice of appeal on January 16, 2007 (doc. no. 95). Pursuant to the provisions of the Prison Litigation Reform Act, 28 U.S.C. § 1915, the plaintiff is required to pay the requisite \$ 455.00 fee for filing this notice of appeal. Accordingly, it is ORDERED that:

(1) If the funds in the plaintiff's prison account exceed \$ 455.00, those persons having custody of the plaintiff shall forward to the clerk of this court the \$ 455.00 appellate filing fee.

(2) If the funds in the plaintiff's prison account are less than \$ 455.00, those persons having custody of the plaintiff shall --

(A) make an initial partial payment to this court equal to the greater of the following amounts:

(a) 20 % of the average monthly deposits to plaintiff's account for the 6-month period immediately preceding the date the plaintiff filed his notice of appeal; or

(b) 20 % of the average monthly balance in the plaintiff's account for the aforementioned 6-month period.

(B) make additional monthly payments of 20 % of each preceding month's income credited to the plaintiff's account until the balance of the \$ 455.00 fee is paid. These additional monthly payments shall be deducted from plaintiff's prison account each time the amount in this account exceeds \$ 10.00 until the \$ 455.00 filing fee is paid in full.

(3) Where the appellate court enters a judgment against the plaintiff for payment of costs at the conclusion of the appeal, including any unpaid portion of the required \$ 455.00 filing fee, those persons having custody of the plaintiff shall continue making monthly payments to this court in accordance with the installment plan outlined in ¶ 2(B) until the full amount of the ordered costs is paid.

To aid those persons having custody of the plaintiff in complying with the requirements of this order, the clerk of this court is DIRECTED to furnish a copy of this order to the inmate account clerk at the institution of the plaintiff's confinement. The account clerk is advised that if the plaintiff is transferred to another prison or detention facility the account clerk shall furnish this order to the appropriate official at the institution where the plaintiff is transferred so that the custodial agency can assume the duties of collecting

and forwarding any remaining monthly payments to this court.

The plaintiff is advised that if, before the \$ 455.00 filing fee is paid in full, the appellate court disposes of the appeal--by dismissing the appeal for lack of jurisdiction, want of prosecution, or because it is frivolous, or by deciding the appeal on the merits--the plaintiff remains obligated to pay the full \$ 455.00 filing fee. The filing fee will be collected from any funds which become available to the plaintiff and will be forwarded to this court by those persons having custody of the plaintiff pursuant to the directives contained in this order.

DONE, this the 23rd day of January, 2007.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE